

Petition for Writ of Certiorari  
Timothy Marcus Mayberry

IN THE  
UNITED STATES SUPREME COURT

ORIGINAL

TIMOTHY MARCUS MAYBERRY )

Petitioner, )

v. )

STATE OF INDIANA, )

Respondent. )

cause no.

21-5535

FILED

JUL 08 2021

OFFICE OF THE CLERK  
SUPREME COURT, U.S.

**MOTION TO PROCEED ON PETITION FOR  
WRIT OF CERTIORARI IN *FORMA PAUPERIS***

Petitioner, in *Pro per*, pursuant to the United States Supreme Court Rules, rule 39(2), and 28 U.S.C.S. § 1915(a), motion this Court to allow me to proceed in *forma pauperis* by waiving all cost and fees for the following reasons:

1. A final adjudication on this case was entered on April 20<sup>th</sup>, 2021;
2. A Writ of Certiorari is being pursued on a final order;
3. The question presented addresses whether the Indiana appellate court's decision in affirming the conviction, conflicts with the United States Constitution of America;
4. The reason(s) why in *forma pauperis* should be granted is the First Amendment's protections of access to the courts. It would violate the First Amendment to deny in *forma pauperis*. See Carter v. United States, 733 F.2d 735 (10<sup>th</sup> cir. 1984); see also *in re Green*, 669 F.2d 779, 786 (D.C. Cir. 1981);

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Petition for Writ of Certiorari  
Timothy Marcus Mayberry

5. My affidavit showing my inability to pay fees or cost and my petition for Writ of Certiorari I intend to present to this Court. (see attached affidavit in support and petition for Writ of Certiorari)

For these reasons I respectfully request this Court to grant my motion to proceed in *forma pauperis* and any other relief this Court deems just and proper.

Respectfully Submitted,

by: mayson-el

Timothy-Marcus:Mayberry, Petitioner  
c/o P.O. Box 1111  
Carlisle, IN 47838-1111  
DOC# 170022

**AFFIRMATION**

I affirm under the penalty of perjury, pursuant to 18 U.S.C.S. § 1621 (2), that the foregoing representations are true and correct to the best of my knowledge.

"7.8.21"  
Date

by: mayson-el  
Timothy Marcus Mayberry, Affiant

**Affidavit In Support Of Motion To Proceed On  
Petition For Writ Of Certiorari In *Forma Pauperis***

I, Timothy Marcus Mayberry, being of sound mind and legal age, of my own free will provide the following:

1. I am unable to pay any fees, cost, or give securities for a petition for Writ of Certiorari for the following reasons:

- a) I am a prisoner at the Wabash Valley Correctional facility in Indiana;
- b) I receive approximately \$27.90 per month from my job as a tray server, and I have no other source of income;
- c) I believe the Indiana state court's final judgment was in error and requires reversal;
- d) I believe that my issues have an arguable basis in law and fact; and
- e) I was appointed a public defender at the Indiana state appeal level.

I affirm under the penalty of perjury, pursuant to 18 U.S.C.S. § 1621 (2), that the foregoing representations are true and correct to the best of my knowledge.

"7.8.21"  
Date

ty. mayson. El  
Timothy Marcus Mayberry, Affiant

**AFFIDAVIT OR DECLARATION  
IN SUPPORT OF MOTION FOR LEAVE TO PROCEED *IN FORMA PAUPERIS***

I, TIMOTHY MARCUS MAMBERLY, am the petitioner in the above-entitled case. In support of my motion to proceed *in forma pauperis*, I state that because of my poverty I am unable to pay the costs of this case or to give security therefor; and I believe I am entitled to redress.

1. For both you and your spouse estimate the average amount of money received from each of the following sources during the past 12 months. Adjust any amount that was received weekly, biweekly, quarterly, semiannually, or annually to show the monthly rate. Use gross amounts, that is, amounts before any deductions for taxes or otherwise.

Income source	Average monthly amount during the past 12 months		Amount expected next month	
	You	Spouse	You	Spouse
Employment	\$ 27.90	\$ N/A	\$ 27.90	\$ N/A
Self-employment	\$ 0	\$	\$ 0	\$
Income from real property (such as rental income)	\$ 0	\$	\$ 0	\$
Interest and dividends	\$ 0	\$	\$ 0	\$
Gifts	\$ 0	\$	\$ 0	\$
Alimony	\$ 0	\$	\$ 0	\$
Child Support	\$ 0	\$	\$ 0	\$
Retirement (such as social security, pensions, annuities, insurance)	\$ 0	\$	\$ 0	\$
Disability (such as social security, insurance payments)	\$ 0	\$	\$ 0	\$
Unemployment payments	\$ 0	\$	\$ 0	\$
Public-assistance (such as welfare)	\$ 0	\$	\$ 0	\$
Other (specify):	\$ 0	\$	\$ 0	\$
<b>Total monthly income:</b>	\$ 27.90	\$ N/A	\$ 27.90	\$ N/A

2. List your employment history for the past two years, most recent first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>

3. List your spouse's employment history for the past two years, most recent employer first. (Gross monthly pay is before taxes or other deductions.)

Employer	Address	Dates of Employment	Gross monthly pay
<u>N/A</u>	<u>N/A</u>	<u>N/A</u>	\$ <u>N/A</u>

4. How much cash do you and your spouse have? \$ 0  
Below, state any money you or your spouse have in bank accounts or in any other financial institution.

Type of account (e.g., checking or savings)	Amount you have	Amount your spouse has
<u>N/A</u>	\$ <u>N/A</u>	\$ <u>N/A</u>

5. List the assets, and their values, which you own or your spouse owns. Do not list clothing and ordinary household furnishings.

<input type="checkbox"/> Home Value <u>N/A</u>	<input type="checkbox"/> Other real estate Value <u>N/A</u>
<input type="checkbox"/> Motor Vehicle #1 Year, make & model <u>N/A</u> Value _____	<input type="checkbox"/> Motor Vehicle #2 Year, make & model <u>N/A</u> Value _____
<input type="checkbox"/> Other assets Description <u>N/A</u> Value _____	

6. State every person, business, or organization owing you or your spouse money, and the amount owed.

Person owing you or your spouse money

Amount owed to you

Amount owed to your spouse

N/A

\$ N/A

\$ N/A

7. State the persons who rely on you or your spouse for support. For minor children, list initials instead of names (e.g. "J.S." instead of "John Smith").

Name

Relationship

Age

N/A

N/A

N/A

8. Estimate the average monthly expenses of you and your family. Show separately the amounts paid by your spouse. Adjust any payments that are made weekly, biweekly, quarterly, or annually to show the monthly rate.

You

Your spouse

Rent or home-mortgage payment  
(include lot rented for mobile home)

\$ 0

\$ N/A

Are real estate taxes included? ☐ Yes ☐ No

Is property insurance included? ☐ Yes ☐ No

Utilities (electricity, heating fuel,  
water, sewer, and telephone)

\$ 0

\$

Home maintenance (repairs and upkeep)

\$ 0

\$

Food

\$ 20.00

\$

Clothing

\$ 0

\$

Laundry and dry-cleaning

\$ 0

\$

Medical and dental expenses

\$ 0

\$ N/A

	You	Your spouse
Transportation (not including motor vehicle payments)	\$ <u>0</u>	\$ <u>N/A</u>
Recreation, entertainment, newspapers, magazines, etc.	\$ _____	\$ _____
Insurance (not deducted from wages or included in mortgage payments)		
Homeowner's or renter's	\$ _____	\$ _____
Life	\$ _____	\$ _____
Health	\$ _____	\$ _____
Motor Vehicle	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Taxes (not deducted from wages or included in mortgage payments)		
(specify): _____	\$ _____	\$ _____
Installment payments		
Motor Vehicle	\$ _____	\$ _____
Credit card(s)	\$ _____	\$ _____
Department store(s)	\$ _____	\$ _____
Other: _____	\$ _____	\$ _____
Alimony, maintenance, and support paid to others	\$ _____	\$ _____
Regular expenses for operation of business, profession, or farm (attach detailed statement)	\$ <u>0</u>	\$ _____
Other (specify): <u>HYGIENE ITEMS</u>	\$ <u>7.90</u>	\$ _____
<b>Total monthly expenses:</b>	\$ <u>27.90</u>	\$ <u>N/A</u>

9. Do you expect any major changes to your monthly income or expenses or in your assets or liabilities during the next 12 months?

☐ Yes

☒ No

If yes, describe on an attached sheet.

10. Have you paid – or will you be paying – an attorney any money for services in connection with this case, including the completion of this form? ☐ Yes ☒ No

If yes, how much? \_\_\_\_\_

If yes, state the attorney's name, address, and telephone number:

11. Have you paid—or will you be paying—anyone other than an attorney (such as a paralegal or a typist) any money for services in connection with this case, including the completion of this form?

☐ Yes

☒ No

If yes, how much? \_\_\_\_\_

If yes, state the person's name, address, and telephone number:

12. Provide any other information that will help explain why you cannot pay the costs of this case.

I AM BEING HELD AS A PRISONER IN THE STATE OF INDIANA.

I declare under penalty of perjury that the foregoing is true and correct.

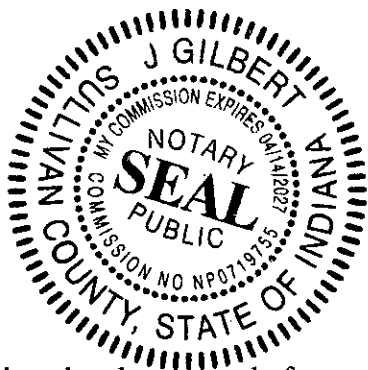
Executed on: AUGUST 18, 20 21

by: MAYSON-EL  
(Signature)



STATE OF INDIANA     )  
                                      )  
COUNTY OF SULLIVAN    )

I, Amos Mayberry, swear, under the penalties for perjury  
that the foregoing is true and correct to the best of my knowledge and belief.



by: Mayberry

DOC. # 170022  
Wabash Valley Correctional Facility  
P.O. Box 1111  
Carlisle, Indiana 47838-8384

Signed and sworn to before me, a Notary Public, on this 18 day of

August, 2021.

4-14-27  
My Commission Expires

Sullivan  
County of Residence

J. Gilbert  
Notary Public

J Gilbert  
Name Printed